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October 8, 2007

Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street, NW
Washington, D.C. 20423-0001

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VIA FAX: 202-565-9002

BEFORE THE SURFACE TRANSPORTATION BOARD

**RE. Union Pacific Railroad Abandonment, Hardin County Iowa;
Docket # AB-33 (Sub-No 168X) – Eldora Junction Line in Eldora, Iowa**

**Motion to Extend the Time Period for Negotiation of an
Interim Trail Use/Railbanking Agreement**

On behalf of the City of Eldora, the Iowa Natural Heritage Foundation (INHF) hereby request the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **April 8, 2008**.

The parties involved need more time to finalize the acquisition of the corridor. The Iowa Natural Heritage Foundation and Union Pacific Railroad Company have negotiated the purchase agreement, but will not finalize the sale and close on the purchase prior to the deadline. To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including **April 8, 2008**. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the issuance of the NITU, UPRR at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking of the portion of the corridor that is covered by the NITU (Eldora Junction). The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in Birt v. STB, 90 F.3d 580 (D.C. Cir. 1996) Here the parties merely seek an extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated, the City of Eldora and the Iowa Natural Heritage Foundation requests that an extension of the NITU negotiation period be granted through **April 8, 2008**

Respectfully Submitted,



Mark C Ackelson
President

CERTIFICATE OF SERVICE

I hereby certify that on **October 8, 2007** I have served a true and accurate copy of the foregoing motion on the following party via first-class mail, postage prepaid and via FAX to 312-777-2065.

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Mark C. Ackelson

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